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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/595,531 06/16/00 HANN

M ITW-12155-01

EXAMINER

PM82/0402

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VU.S

ART UNIT

PAPER NUMBER

3636
DATE MAILED:

04/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/595,531

Applicant(s)
Hann

Examiner
Stephen VU

Group Art Unit
3636



☒ Responsive to communication(s) filed on Jan 23, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 9, 11, 13, and 21-27 is/are pending in the application.

Of the above, claim(s) 22-27 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 9, 11, 13, and 21 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☒ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Newly submitted claims 22-27 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the applicant elected the embodiment of Figure 3 in a telephone conversation on October 13, 2000. Newly proposed claims in this Amendment are directed to the non-elected species of Figures 1 and 4-6.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-27 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 U.S.C. § 112

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The problem arises when the headrest assembly and seat frame are positively recited within the body of the claim, such as "the headrest guide is connected with respect to a seat frame of a vehicle." In this case there is an inconsistency within the claims. The preamble in independent claim 9 indicates subcombination, while in the body of claim 11 there is a positive

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recital of structure indicating that the combination of a headrest assembly and seat frame are being claimed.

Applicant should clarify what independent claim 9 is intended to be drawn to , i.e. either the headrest assembly alone or the combination of the headrest assembly with the seat frame. Applicant should make the language of the claims consistent with the applicant's intent. If the applicant intends to claim the combination, then the language in the preamble should be made consistent with the language in the body of the claims. If the applicant intends to claim only the subcombination, then the body of the claim must be amended to remove any positive recitation of the combination.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 9,11,13, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al.

Parker et al show a headrest assembly (10), as illustrated in Figures 1-10, comprising a headrest guide having two sleeves (12) forming a channel (14) and a headrest insert (16). The

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two sleeves (12) are rigidly connected with respect to one another, wherein the channel (14) of each of the sleeves (12) is parallel with the other. In addition, two generally parallel rods (26) are each fixed at one end with respect to the headrest insert (16) and slidable at an opposite end with respect to the channel (14) in the headrest guide. The headrest guide has two sleeves (12), which are integrally molded, unitary components (see col. 6, lines 38-41).

With claim 11, it is best understood that the headrest guide is connected with respect to a seat frame of a vehicle (see Abstract, lines 1-4).

With claim 13, it is best interpreted that the headrest insert (16) tapers from an outer end toward a center portion (see the attached Exhibit A).

Response to Arguments

5. Applicant's arguments filed January 23, 2001 have been fully considered but they are not persuasive.

Remarks

The examiner has reviewed and considered the applicant's comments in the Amendment, filed on January 23, 2001. It's the examiner's position that claims 9, 11, 13, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al. Newly submitted claims 22-27 are not considered, because they are directed to an invention that is independent or distinct from the invention originally claimed. It is unclear what the applicant's intention is with this case. The

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applicant had elected the embodiment of Figure 3 in a phone election, on October 13, 2000. The applicant apparently changed his mind and amended the claims so that it would read on Figures 1 and 4-6, and not Figure 3. However, the prosecution of the case will still rely on Figure 3 based on original presentation for prosecution on the merits.

The applicant has argued that the prior art of Parker et al does not teach or suggest the claimed invention. The examiner disagrees with this argument. It's best understood that Parker et al show a headrest assembly (10), as illustrated in Figures 1-10, comprising a headrest guide having two sleeves (12) forming a channel (14) and a headrest insert (16). The two sleeves (12) are rigidly connected with respect to one another, wherein the channel (14) of each of the sleeves (12) is parallel with the other. In addition, two generally parallel rods (26) are each fixed at one end with respect to the headrest insert (16) and slidable at an opposite end with respect to the channel (14) in the headrest guide. The headrest guide has two sleeves (12), which are integrally molded, unitary components (see col. 6, lines 38-41).

Therefore, the examiner confirms this final rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Vu, whose telephone number is (703) 308-1378.



Stephen Vu
Patent Examiner
March 29, 2001



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600